

COMMITTEE ON GOVERNMENT REFORM

“Sifting Through Katrina's Legal Debris: Contracting in the Eye of the Storm” Opening Statement of Chairman Tom Davis

**May 4, 2006
10:00 a.m.**

Room 2154, Rayburn House Office Building

Good morning, and welcome to today's hearing to examine the Federal government's contracting policies, practices, preparations, and response to Hurricane Katrina.

The purpose of this hearing is to examine: 1) the contracts in place prior to Katrina's landfall, and planning efforts that took place in anticipation of this catastrophic event; 2) the rationale and process for awarding disaster relief and recovery contracts in the immediate aftermath; 3) the internal controls in place to ensure that federal acquisition laws were followed and that effective contracting practices were used; and 4) the terms and performance of Katrina relief contracts.

Most importantly, however, I want this Committee to learn the ways in which the management and oversight of disaster-related contracting can be strengthened by heeding lessons learned after Katrina.

On August 29, 2005, Hurricane Katrina hit the Gulf Coast states of Louisiana, Mississippi, and Alabama with Category IV winds and torrential rains, causing widespread flooding and destruction. By September 9, 2005, Congress had provided over \$63 billion for disaster relief, and is considering another \$20 billion supplemental request.

The contracting community faced unique and challenging circumstances. Acquisition personnel acted to meet pressing humanitarian needs, contacting firms in an effort to provide immediate relief to survivors and to protect life and property. Many firms were called into action on a sole-source basis under acquisition flexibilities that allow the government to acquire urgently needed goods and services in emergency situations. Notwithstanding the extraordinary scope of the disaster, a significant portion of the immediate response efforts were provided through existing contracts that had been previously awarded through full and open competition.

As we learned from our work on the House Select Katrina Committee, the circumstances and urgent needs created by the storm provided an unprecedented opportunity for fraud and mismanagement. Nevertheless, despite the speed and scope of the effort, the system, though stressed, appeared to work well.

Today, we want to learn whether the proper procedures, vehicles, and mechanisms are in place to minimize systematic vulnerabilities and meet the challenges posed by catastrophic events.

The Committee is interested in pre-disaster acquisition planning by federal agencies, the initial acquisition response to the need for immediate relief, and efforts to respond to more long term recovery needs. The adequacy of the existing acquisition workforce to provide contract management and support will be examined as well. Finally, we will review lessons learned and suggestions for improvements in our response to future disasters. Our review will include the use of set asides, including local contractor participation under the Stafford Act.

In addition, we want to understand the specific roles and responsibilities of private companies as contractors to the federal government. Our witnesses can bring their perspectives regarding forward contracting, reverse auctions, the use of on-line acquisition technology, and the challenges that occurred in implementing the Stafford Act preferences for local contractors. We will ask what assistance these firms provided to agencies, the extent of previous support for agency missions during natural disasters, and their participation in pre-existing disaster relief plans. Finally, I am interested in the companies' perspectives regarding the most effective contracting vehicles, methods, and policies.

Millions of dollars has gone to private firms to help prepare for and respond to Katrina. Part of our job is to ask what contracts should have been in place before this storm arrived and the rationale and process for awarding disaster relief and recovery contracts in the immediate aftermath. We'll ask about the ways in which the management and oversight of disaster-related contracting can be strengthened.

Concerns have been raised with respect to how the federal government awards contracts in the immediate aftermath of a disaster. I hope we can take the time to understand how the procurement system works, before we rush to change it.

I am sure we will learn that there have been mistakes when decisions were made quickly. There will be disagreements with contractors over pricing and payment schedules, which happens with complex contracts under difficult circumstances.

We also need to review local participation. Under the Stafford Act, agencies and prime contractors are to give preference to local subcontractors, but many small local businesses continue to complain they aren't hired, or are hired on unfair terms. Questions have been raised about the Corps of Engineers' use of a limited competition to award contracts for debris removal and clean up, for example.

At the same time, larger firms argue that the projects are too big or complicated for small firms to handle. Agencies cite the need to hire firms with the track record, financial strength, and expertise to meet their requirements. They also note the challenges posed by managing hundreds of smaller contractors.

This raises a related, but important issue. Clearly, we want contractors to have the expertise to get the job done. But before we can address that issue, we need a sufficiently trained acquisition workforce.

Our acquisition laws have been crafted to provide enough flexibility for the government to quickly get what it needs in emergency situations. I hope we will learn what tools, if any, we need to be better prepared the next time.

The officials on Panel I will provide an overview of the acquisition process and a description of the acquisitions made before and after Katrina. The witnesses will undertake a review of their agencies' performance in response to Katrina and their plans for the future. The DHS-IG and GAO witnesses will provide an overview of their Katrina-related investigations and oversight efforts.

Panel II consists of representative companies whose work can highlight particular contracting issues surrounding response and recovery requirements. AshBritt is a national firm providing debris removal services; AmeriCold Logistics contracted to provide ice; FedBid provides reverse auction services; and Necaise Brothers is a small, local contractor. Panel II witnesses are expected to provide an overview of the goods and services they provided, a review of their contracts with the Federal government, and the unique challenges they face carrying out their missions.

I look forward to hearing from them.